

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:	)	
USG CORPORATION, A Delaware Corporation., <i>et al.</i> ,	)	Chapter 11
Debtors.	)	Jointly Administered
USG CORPORATION, <i>et al.</i> ,	)	Case No. 01-2094 (JKF)
Movant	)	
v.	)	
OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS, <i>et al.</i>	)	Civil Action No. 04-1559 (JFC)
Respondents.	)	Civil Action No. 04-1560 (JFC)

**MOTION OF BARON & BUDD, P.C., FOSTER & SEAR, LEBLANC &  
WADDELL, LLP AND SILBER PEARLMAN, LLP  
TO EXTEND TIME TO COMPLETE DEBTORS' STANDARD  
QUESTIONNAIRE TO SELECT PERSONAL INJURY ASBESTOS CLAIMANTS**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Baron & Budd, P.C., Foster & Sear, LeBlanc & Waddell, LLP, and Silber Pearlman, LLP (or the "Movants") respectfully submits this Motion to Extend Time to Complete Debtors' Standard Questionnaire to Select Personal Injury Asbestos Claimants, as follows:

**Background**

1. On June 13, September 20, and October 6, 2005, this court held hearings regarding discovery issues in this matter, including the Motion for Approval of the

Debtors' Sampling Plan and Claimant Questionnaire and the discovery schedule for the estimation of Debtors' asbestos personal injury liabilities.

2. On October 17, 2005, the Court entered its Order Re: Personal Injury Estimation [Doc. No. 62].

3. In the Order Re: Personal Injury Estimation, the Court ordered the Debtors to serve the claimant questionnaire attached to the Order Re: Personal Injury Estimation as Exhibit A, Debtors' Standard Questionnaire to Select Personal Injury Asbestos Claimants (the "Questionnaire"), on a sample of 2000 personal injury claimants.

4. The Movants were served with Questionnaires for in excess of approximately one and thirty (130) personal injury claimants in the aggregate. Baron & Budd, LeBlanc & Waddell and Silber Pearlman have approximately one hundred (100) Questionnaires for which they have primary responsibility for completion. Foster & Sear has responsibility for approximately thirty (30) Questionnaires.

5. The Order Re: Personal Injury Estimation requires the Questionnaire to be returned by mail on or before January 9, 2006 to be deemed timely.

#### **Grounds for the Motion**

6. Upon receipt of the Questionnaires, each of the Movants began reviewing its files for the information necessary to accurately complete the detailed twenty-seven (27) page Questionnaires.

7. Simultaneously with their work on completing the Questionnaires, each of the Movants also was reviewing its files and completing the ten (10) page W.R. Grace

Asbestos Personal Injury Questionnaire for all of its clients who are holders of Asbestos PI Pre-Petition Litigation Claims for submission by January 12, 2006, pursuant to the Case Management Order for the Estimation of Asbestos Personal Injury Liabilities entered by the court in *In re W.R. Grace & Co., et al.*, Case No. 01-1139 (JKF) in the United States Bankruptcy Court for the District of Delaware.<sup>1</sup>

8. Completion of each of the Questionnaires in this matter involves answering over one hundred (100) questions, most of which are multi-part, and compiling and submitting copies of medical reports and records.

9. In fact, the Court has recognized the complexity of the Questionnaires. *See* Transcript of Motions Proceedings on Thursday, October 6, 2005, United States District Court, Pittsburgh, Pennsylvania before the Honorable Joy Flowers Conti, District Judge, at p. 15, ll. 23-24 (“It’s clear to this Court than an average person is going to have to have counsel assist them in [completing the Questionnaires] . . .”).

10. Although each of the Movants has worked diligently to complete the Questionnaires, the diversion of each Movant’s attorney and staff resources to the work on completing the voluminous number of W.R. Grace Asbestos Personal Injury Questionnaires for all of its clients who are holders of Asbestos PI Pre-Petition Litigation Claims, coupled with the intervening holiday season and its attendant attorney and staff

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<sup>1</sup> The court in *W.R. Grace* recently extended the time for holders to Asbestos PI Pre-Petition Litigation Claims to complete and served those questionnaires to March 13, 2006. *See* Order Modifying the Case Management Order for the Estimation of Asbestos Personal Injury Liabilities Regarding the Extension to Time for Claimants to Respond to Questionnaires and to Designate Non-Expert Witnesses dated December 21, 2005 in *In re W.R. Grace & Co., et al.*, Case No. 01-1139 (JKF) in the United States Bankruptcy Court for the District of Delaware.

vacations, has made completion of the Questionnaires by the January 9, 2006 deadline impossible.

11. Because the Movants want to complete each of the Questionnaires with which it was served accurately in compliance with the Court's Order Re: Personal Injury Estimation, the Movants seek an extension of time to complete the Questionnaires.

12. Movants reserve their rights regarding objections to the Questionnaires, including, but not limited to, the jurisdiction of the Court over the Questionnaires.

13. The Motion is not filed for purposes to delaying Personal Injury Estimation, but so that justice may be done and the Movants may accurately complete the Questionnaires.

#### **Relief Requested**

For the foregoing reasons, the Movants respectfully request the Court to extend the time for them to complete and return the Questionnaires for thirty (30) days or until February 8, 2006 and to grant them such other and further relief to which the Court finds they are justly entitled.

Respectfully submitted,

/s/Daniel K. Hogan

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